

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

**REPORT AND RECOMMENDATION ON DEFENDANT'S COMPETENCY TO
PROCEED**

On July 14, 2017, defendant Edward Merritt filed a motion for judicial determination of his competency pursuant to 18 U.S.C. § 4241 (doc. 8). On July 17, 2017, an order was entered by the Honorable Judge Robert E. Larsen, granting Defendant's motion and ordering that Defendant undergo an examination by qualified psychiatrist or psychologist to determine if Defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. (Doc. 9).

On October 27, 2017, the Court received a Forensic Evaluation from Dr. Jeremiah Dwyer, Ph.D., a Forensic Psychologist with the Federal Bureau of Prisons in Englewood, Colorado. (Doc. 16). In the Forensic Evaluation Report, Dr. Dwyer opined that defendant Edward Merritt does not appear to suffer from a mental disease or defect rendering him unable to understand the nature and consequences of the proceedings against him or to properly assist in his defense.

A hearing was held as to Defendant's competency on December 8, 2017. The defendant appeared in person and by counsel, Anita L. Burns. Assistant United States Attorney David Raskin appeared for the Government. Dr. Dwyer testified by telephone at the hearing.

Defense counsel indicated to the Court that Defendant was challenging Dr. Dwyer's diagnosis of Antisocial Personality Disorder. Both defense counsel and the government had an opportunity to cross-examine Dr. Dwyer and Dr. Dwyer testified at length to the Court as to his evaluation of Defendant. The Court found Dr. Dwyer's testimony and diagnoses to be

professionally sound and based on a full and proper forensic evaluation of defendant Edward Merritt.

Upon conclusion of the hearing, based on the Forensic Evaluation Report submitted by Dr. Dwyer for defendant Edward Merritt, and the testimony of Dr. Dwyer at the competency hearing, the Court finds that defendant Edward Merritt is not presently suffering from a mental disease or defect rendering him incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

IT IS, THEREFORE, RECOMMENDED that defendant Edward Merritt be found competent to stand trial. (Doc. 8).

Counsel are reminded that they have fourteen days from the date of receipt of a copy of this Report and Recommendation within which to file and serve objections. A failure to file and serve exceptions by this date shall bar an attack on appeal of the factual findings in the Report and Recommendation which are accepted or adopted by the district judge, except on the grounds of plain error or manifest injustice.

Dated this 8th day of December, 2017, at Kansas City, Missouri.

/s/ Matt J. Whitworth

MATT J. WHITWORTH
United States Magistrate Judge